

any Permitted Designee, and furnish MCC evidence of such adoption, no later than the time specified in the Disbursement Agreement.

(b) The Government shall follow, and shall use its best efforts to ensure that all Providers follow, the Procurement Guidelines in procuring goods, services and works and in awarding contracts, grants and other agreements in furtherance of this Compact, which shall include the following requirements:

(i) Open, fair and competitive procedures are used in a transparent manner to solicit, award and administer contracts, grants, and other agreements and to procure goods, services and works;

(ii) Solicitations for goods, services, and works shall be based upon a clear and accurate description of the goods, services or works to be acquired;

(iii) Contracts shall be awarded only to qualified and capable contractors that have the capability and willingness to perform the contracts in accordance with the terms and conditions of the applicable contracts and on a cost effective and timely basis; and

(iv) No more than a commercially reasonable price, as determined, for example, by a comparison of price quotations and market prices, shall be paid to procure goods, services, and works.

(c) The Government shall maintain, and shall use its best efforts to ensure that all Providers maintain, records regarding the receipt and use of goods and services acquired in furtherance of this Compact, the nature and extent of solicitations of prospective suppliers of goods and services acquired in furtherance of this Compact, and the basis of award of contracts, grants and other agreements in furtherance of this Compact.

(d) The Government shall use its best efforts to ensure that information, including solicitations, regarding procurement, grant and other agreement actions financed in whole or in part (directly or indirectly) by MCC Funding shall be made publicly available in the manner outlined in the Procurement Guidelines or in any other manner agreed upon by the Parties in writing.

(e) No goods, services or works may be financed in whole or in part (directly or indirectly) by MCC Funding which are procured pursuant to orders or contracts firmly placed or entered into prior to the entry into force of this Compact, except as the Parties may otherwise agree in writing.

(f) The Government shall include, or ensure the inclusion of, the requirements of this Section 3.6 into all Supplemental Agreements between the Government or any Government Affiliate or Permitted Designee or any of their respective directors, officers, employees, Affiliates, contractors, representatives or agents, on the one hand, and a Provider, on the other hand.

Section 3.7 Policy Performance; Policy Reforms. In addition to the specific policy and legal reform commitments identified in Annex I and the Schedules thereto, the Government shall seek

to maintain and improve its level of performance under the policy criteria identified in section 607 of the Millennium Challenge Act of 2003, as amended (the "*Act*"), and the MCA selection criteria and methodology published by MCC pursuant to section 607 of the Act from time to time ("*MCA Eligibility Criteria*").

Section 3.8 Records and Information; Access; Audits; Reviews.

(a) Reports and Information. The Government shall furnish to MCC, and shall use its best efforts to ensure that all Providers and any other third party receiving MCC Funding, as appropriate, furnish to the Government, any records and other information required to be maintained under this Section 3.8 and such other information, documents and reports as may be necessary or appropriate for the Government to effectively carry out its obligations under this Compact, including under Section 3.12.

(b) Government Books and Records. The Government shall maintain, and shall use its best efforts to ensure that all Providers maintain, accounting books, records, documents and other evidence relating to this Compact adequate to show, without limitation, the use of all MCC Funding, including all costs incurred by the Government and the Providers in furtherance of this Compact, the receipt and use of goods and services acquired in furtherance of this Compact by the Government and the Providers, agreed-upon cost sharing requirements, the nature and extent of solicitations of prospective suppliers of goods and services acquired by the Government and the Providers in furtherance of this Compact, the basis of award of Government and other contracts and orders in furtherance of this Compact, the overall progress of the implementation of the Program, and any documents required by this Compact or any Supplemental Agreement between the Parties or reasonably requested by MCC upon reasonable notice ("*Compact Records*"). The Government shall maintain, and shall use its best efforts to ensure that all Covered Providers (defined in Section 3.8(e)(iv)) maintain, Compact Records in accordance with generally accepted accounting principles prevailing in the United States, or at the Government's option and with the prior written approval by MCC, other accounting principles, such as those (1) prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants) or (2) then prevailing in Madagascar. Compact Records shall be maintained for at least five (5) years after the end of the Compact Term or for such longer period, if any, required to resolve any litigation, claims or audit findings or any statutory requirements.

(c) Application to Providers. The Government shall include, or ensure the inclusion of, the requirements of paragraphs (a), (b), (c), (d), (e)(iii), (e)(vi), and (e)(viii) of this Section 3.8 into all Supplemental Agreements between the Government or any Government Affiliate or any Permitted Designee or any of their respective directors, officers, employees, Affiliates, contractors, representatives or agents, on the one hand, and a Covered Provider that is not a non-profit organization domiciled in the United States, on the other hand. The Government shall include, or ensure the inclusion of, at a minimum, the requirements of paragraphs (a), (b), (d), and (e)(viii) of this Section 3.8 into all Supplemental Agreements between the Government or any Government Affiliate or Permitted Designee or any of their respective directors, officers, employees, Affiliates, contractors, representatives or agents, on the one hand, and a Provider that does not meet the definition of a Covered Provider, on the other hand. The Government shall include, or ensure the inclusion of, at a minimum, the requirements of paragraphs (a), (b), and (d)

of this Section 3.8 into all Supplemental Agreements between the Government or any Government Affiliate or any Permitted Designee or any of their respective directors, officers, employees, Affiliates, contractors, representatives or agents, on the one hand, and a Covered Provider that is a non-profit organization domiciled in the United States, on the other hand.

(d) Access. The Government shall permit, or cause to be permitted, authorized representatives of MCC, the Inspector General (defined below), the United States Government Accountability Office, any auditor responsible for an audit contemplated herein or otherwise conducted in furtherance of this Compact, and any agents or representatives engaged by MCC or a Permitted Designee to conduct any assessment, review or evaluation of the Program, at all reasonable times the opportunity to audit, review, evaluate or inspect activities financed in whole or in part (directly or indirectly) by MCC Funding or undertaken in connection with the Program, the utilization of goods and services purchased or financed in whole or in part (directly or indirectly) by MCC Funding, and Compact Records, including of the Government or any Provider, relating to activities financed or undertaken in furtherance of, or otherwise relating to, this Compact, and shall use its best efforts to ensure access by MCC, the Inspector General, the United States Government Accountability Office or relevant auditor, reviewer or evaluator or their respective representatives or agents to all relevant directors, officers, employees, Affiliates, contractors, representatives and agents of the Government or any Provider.

(e) Audits.

(i) Government Audits. The Government shall, on at least an annual basis and as the Parties may otherwise agree, conduct, or cause to be conducted, financial audits of all MCC Disbursements and Re-Disbursements during the year since the entry into force of this Compact or since the prior anniversary of the entry into force of this Compact in accordance with the following terms, except as the Parties may otherwise agree in writing. As requested by MCC in writing, the Government shall use, or cause to be used, or select, or cause to be selected, an auditor named on the approved list of auditors in accordance with the "*Guidelines for Financial Audits Contracted by Foreign Recipients*" issued by the Inspector General of the United States Agency for International Development (the "*Inspector General*"), and as approved by MCC, to conduct such annual audits. Such audits shall be performed in accordance with such Guidelines and be subject to quality assurance oversight by the Inspector General in accordance with such Guidelines. An audit shall be completed no later than 90 days after the first anniversary of the entry into force of this Compact and no later than 90 days after each anniversary of the entry into force of this Compact thereafter, or such other period as the Parties may otherwise agree in writing.

(ii) Audits of U.S. Entities. The Government shall ensure that Supplemental Agreements between the Government or any Provider, on the one hand, and a United States nonprofit organization, on the other hand, state that the United States organization is subject to the applicable audit requirements contained in OMB Circular A-133, notwithstanding any other provision of this Compact to the contrary. The Government shall ensure that Supplemental Agreements between the Government or any Provider, on the one hand, and a United States for-profit Covered Provider, on the other hand, state that the United States organization is subject to audit by the cognizant United States Government agency, unless the Government and MCC agree otherwise in writing.

(iii) **Audit Plan.** The Government shall submit, or cause to be submitted, to MCC, in form and substance satisfactory to MCC, a plan for the audit of the expenditures of any Covered Providers, which audit plan the Government shall adopt, or cause to be adopted, no later than sixty (60) days prior to the end of the first anniversary of the entry into force of this Compact or prior to the end of the first period to be audited.

(iv) **Covered Provider.** A "*Covered Provider*" is (A) any non-United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD \$300,000 or more in such Provider's fiscal year in MCC Funding or any other non-U.S. Party that receives, directly or indirectly, USD \$300,000 or more of MCC Funding from any Provider in such other party's fiscal year or (B) any United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD \$500,000 or more in such Provider's fiscal year in MCC Funding or any other United States party that receives, directly or indirectly, USD \$500,000 or more of MCC Funding from any Provider in such Provider's fiscal year.

(v) **Corrective Actions.** The Government shall use its best efforts to ensure that Covered Providers take, where necessary, appropriate and timely corrective actions in response to audits, consider whether a Covered Provider's audit necessitates adjustment of its own records, and require each such Covered Provider to permit independent auditors to have access to its records and financial statements as necessary.

(vi) **Audit Reports.** The Government shall furnish, or use its best efforts to cause to be furnished, to MCC an audit report in a form satisfactory to MCC for each audit required by this Section 3.8, other than audits arranged for by MCC, no later than 90 days after the end of the period under audit, or such other time as may be agreed by the Parties from time to time.

(vii) **Other Providers.** For Providers who receive MCC Funding under this Compact pursuant to direct contracts or agreements with MCC, MCC shall include appropriate audit requirements in such contracts or agreements and shall, on behalf of the Government, unless otherwise agreed by the Parties, conduct the follow-up activities with regard to the audit reports furnished pursuant to such requirements.

(viii) **Audit by MCC.** MCC retains the right to perform, or cause to be performed, the audits required under this Section 3.8 by utilizing MCC Funding or other resources available to MCC for this purpose, and to audit, conduct a financial review, or otherwise ensure accountability of any Provider or any other third party receiving MCC Funding, regardless of the requirements of this Section 3.8.

(f) **Reviews or Evaluations.** The Government shall conduct, or cause to be conducted, such performance reviews, data quality reviews, or program evaluations during the Compact Term in accordance with the M&E Plan (defined in Annex I) or as otherwise agreed in writing by the Parties.

(g) **Cost of Audits, Reviews or Evaluations.** MCC Funding may be used to finance the costs of any Audits, reviews or evaluations required under this Compact, including as

reflected on Exhibit A to Annex II, and in no event shall the Government be responsible for the costs of any such Audits, reviews or evaluations.

Section 3.9 Insurance. The Government shall insure or cause to be insured all Program Assets and obtain such other appropriate insurance to cover against risks or liabilities associated with the operations of the Program. The Government shall be responsible for the cost of such insurance, except as otherwise agreed by the Parties and expressly covered in the Budget (as defined in Annex I). MCC shall be named as additional insureds on any such insurance, to the extent permissible under applicable laws, and any payments received by the Government under such insurance shall be used to replace or repair any loss of Program Assets, and otherwise shall be deposited in an account as designated by MCC.

Section 3.10 Domestic Requirements. The Government shall proceed in a timely manner to seek any required ratification of this Compact or similar domestic requirement, which process the Government shall initiate promptly after the conclusion of this Compact. Notwithstanding anything to the contrary in this Compact, this Section 3.10 shall provisionally apply prior to the entry into force of this Compact.

Section 3.11 No Conflict. The Government shall undertake not to enter into any agreement in conflict with this Compact or any Supplemental Agreement during the Compact Term.

Section 3.12 Reports. The Government shall provide to MCC within thirty (30) days of any written request by MCC, or as otherwise agreed in writing by the Parties, the following information:

- (a) The name of each entity to which MCC Funding has been provided;
- (b) The amount of assistance provided to such entity;
- (c) A description of the Program and each Project funded in furtherance of this Compact, including:
 - (i) A statement of whether the Program or any Project was solicited or unsolicited; and
 - (ii) A detailed description of the objectives and measures for results of the Program or Project;
- (d) The progress made by Madagascar toward achieving the Compact Goal and Objectives;
- (e) A description of the extent to which MCC Funding has been effective in helping Madagascar to achieve the Compact Goal and Objectives;
- (f) A description of the coordination of MCC Funding with other United States foreign assistance and other related trade policies;

(g) A description of the coordination of MCC Funding with assistance provided by other donor countries;

(h) Any report, document or filing that the Government, any Government Affiliate or any Permitted Designee submits to any government body in connection with this Compact;

(i) Any report or document required to be delivered to MCC under the Environmental Guidelines, the Audit Plan, or any component of the Implementation Plan; and

(j) Any other report, document or information requested by MCC or required by this Compact or any Supplemental Agreement between the Parties.

Section 3.13 Publicity; Information and Marking. The Government shall give appropriate publicity to this Compact as a program to which the United States, through MCC, has contributed, including by posting this Compact, and any amendments thereto, on the MCA-Madagascar Website (defined in Annex I), identifying Program activity sites, and marking Program Assets; *provided*, any announcement, press release or statement regarding MCC or the fact that MCC is financing the Program or any other publicity materials referencing MCC, including the publicity described in this Section 3.13, shall be subject to prior approval by MCC and shall be consistent with any instructions provided by MCC from time to time in relevant Implementation Letters. MCC shall post this Compact on its website. Upon the termination or expiration of this Compact, MCC may request the removal of, and the Government shall, upon such request, remove, or cause the removal of, any such markings and any references to MCC in any publicity materials or on the MCA-Madagascar Website.

ARTICLE IV.

DELIVERIES; CONDITIONS PRECEDENT

Section 4.1 Government Deliveries and Other Conditions Prior to the Entry into Force. As condition precedent to the entry into force of this Compact, the Government shall satisfy, or ensure the satisfaction of, the conditions set forth in this Section 4.1.

(a) **Government Deliveries.** The Government shall deliver, or ensure the delivery, to MCC, in form and substance satisfactory to MCC, the following documents:

(i) A written statement of the name of the person holding or acting in the Government office specified in Section 5.2 and of any Additional Representative (defined below), together with a specimen signature for each person specified in such statement and an incumbency certificate for each such person;

(ii) An executed copy of the Disbursement Agreement, which agreement shall be in full force and effect as of the entry into force of this Compact, without any modification, amendment, alteration or suspension of any kind;

(iii) Executed copies of one or more term sheets by and between MCC and the Government that set forth the material and principal terms and conditions of each of the

Supplemental Agreements identified in Exhibit A attached hereto (the "Supplemental Agreement Term Sheets"); and

(iv) An executed copy of the Procurement Agreement, which agreement shall be in full force and effect as of the entry into force of this Compact, without any modification, amendment, alteration or suspension of any kind.

(b) Government Assurances. The Government shall certify to MCC in writing that all of the Government assurances contained in Section 3.4 were true, correct and complete when made and that the assurances in paragraphs (a) through (d) of Section 3.4 are true, accurate and complete in all material respects as of the entry into force of this Compact.

(c) No Material Breach or Adverse Change. The Government shall certify in writing to MCC that that there has been: (i) no material breach or default of any assurance, covenant or other obligation under any Supplemental Agreement between the Parties executed on or before the entry into force of this Compact; (ii) no material adverse change in the legal formation document or status of MCA-Madagascar; (iii) no modification, amendment, alteration, rescission, termination or suspension of any Supplemental Agreement delivered pursuant to Section 4.1(a); and (iv) no event has occurred that had or reasonably could be expected to have a material adverse change in or material adverse effect on: (A) the business, ministries, departments, property, operations, management, or condition, financial or otherwise, of the Government or any Government Affiliate or Permitted Designee, as it relates to this Compact; (B) the ability of the Government or any Government Affiliate or Permitted Designee to perform any of its obligations in furtherance of this Compact or exercise any of its rights under this Compact; or (C) the validity or enforceability of this Compact or any Supplemental Agreement to which any of them is a party.

Section 4.2 Conditions Precedent to MCC Disbursements or Re-Disbursements. Prior to, and as condition precedent to, any MCC Disbursement or Re-Disbursement, the Government shall satisfy, or ensure the satisfaction of, any applicable conditions precedent in the Disbursement Agreement.

ARTICLE V.

FINAL CLAUSES

Section 5.1 Communications. Unless otherwise expressly stated in this Compact or otherwise agreed in writing by the Parties, any notice, certificate, request, report, document or other communication required, permitted, or submitted by either Party to the other under this Compact shall be: (a) in writing, (b) in English, and (c) deemed duly given: (i) upon personal delivery to the Party to be notified; (ii) when sent by confirmed facsimile or electronic mail, if sent during normal business hours of the recipient Party, if not, then on the next business day; or (iii) one (1) business day after deposit with an internationally recognized overnight courier, specifying next day delivery, with written verification of receipt to the Party to be notified at the address indicated below, or at such other address as such Party may designate:

To MCC:

Millennium Challenge Corporation
Attention: Vice President for Country Relations
(with a copy to the Vice President and General Counsel)
1000 Wilson Boulevard - Suite 1400
Arlington, VA 22209
United States of America
Facsimile: (202) 521-3700
Email: VPCountryRelations@mcc.gov (Vice President for Country Relations);
VPGeneralCounsel@mcc.gov (Vice President and General Counsel)

To the Government:

Presidence de la Republique de Madagascar
Attention: Chief of Staff of the Presidency
BP 955
Antananarivo 101
Madagascar,
Facsimile: 261 20 22 628 50
E-mail: Henran@wanadoo.mg

Notwithstanding the foregoing, any audit report delivered pursuant to Section 3.8, if delivered by facsimile or electronic mail, shall be followed by an original in overnight express mail. This Section 5.1 shall not apply to the exchange of letters contemplated in Section 1.3 or any amendments under Section 5.3.

Section 5.2 Representatives. Unless otherwise agreed in writing by the Parties, for all purposes relevant to this Compact, the Government shall be represented by the individual holding the position of, or acting as, Chief of Staff of the Presidency of the Republic of Madagascar, and MCC shall be represented by the individual holding the position of, or acting as, Vice President for Country Relations (each, a "*Principal Representative*"), each of whom, by written notice, may designate one or more additional representatives (each, an "*Additional Representative*") for all purposes other than signing amendments to this Compact. The names of the Principal Representative and any Additional Representative of each of the Parties shall be provided, with specimen signatures, to the other Party, and the Parties may accept as duly authorized any instrument signed by such representatives relating to the implementation of this Compact, until receipt of written notice of revocation of their authority. A Party may change its Principal Representative to a new representative of equivalent or higher rank upon written notice to the other Party, which notice shall include the specimen signature of the new Principal Representative.

Section 5.3 Amendments. The Parties may amend this Compact only by a written agreement signed by the Principal Representatives of the Parties.

Section 5.4 Termination; Suspension.

(a) Subject to Section 2.5 and paragraphs (e) through (h) of this Section 5.4, either Party may terminate this Compact in its entirety by giving the other Party thirty (30) days' written notice.

(b) Notwithstanding any other provision of this Compact, including Section 2.1, or any Supplemental Agreement between the Parties, MCC may suspend or terminate MCC Funding, in whole or in part, and any obligation or sub-obligation related thereto, upon giving the Government written notice, if MCC determines that:

(i) Any use or proposed use of MCC Funding or Program Assets or continued implementation of the Compact would be in violation of applicable law or U.S. Government policy, whether now or hereafter in effect;

(ii) The Government, any Provider, or any other third party receiving MCC Funding or using Program Assets is engaged in activities that are contrary to the national security interests of the United States;

(iii) The Government has committed an act or an event has occurred that would render the Republic of Madagascar ineligible to receive United States economic assistance under Part I of the Foreign Assistance Act of 1961, as amended (22 U.S.C 2151 *et seq.*), by reason of the application of any provision of the Foreign Assistance Act of 1961 or any other provision of law;

(iv) The Government has engaged in a pattern of actions or omissions inconsistent with the MCA Eligibility Criteria, or there has occurred a significant decline in the performance of the Republic of Madagascar on one or more of the eligibility indicators contained therein;

(v) The Government or any Provider, in MCC's sole opinion, has materially breached one or more of its assurances or any other covenants, obligations or responsibilities under this Compact or any Supplemental Agreement;

(vi) An audit, report or any other document or other evidence reveals that actual expenditures for the Program or any Project Activity were greater than the projected expenditure for such activities identified in the applicable Budget;

(vii) If the Government (A) materially reduces the allocation in its national budget or any other Government budget of the normal and expected resources that the Government would have otherwise received or budgeted, from external or domestic sources, for the activities contemplated herein or (B) fails to contribute or provide the amount, level, type and quality of resources required to effectively carry out the Government Responsibilities or any other responsibilities or obligations of the Government under or in furtherance of this Compact;

(viii) If the Government, any Provider, or any other third party receiving MCC Funding or using Program Assets, or any of their respective directors, officers, employees,

Affiliates, contractors, representatives or agents, is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking;

(ix) Any MCC Funding or Program Assets are applied, directly or indirectly, to the provision of resources and support to, individuals and organizations associated with terrorism, sex trafficking or prostitution;

(x) An event or condition of any character has occurred that, in MCC's sole opinion: (A) materially and adversely affects, or is likely to materially and adversely affect, the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of this Compact or any Supplemental Agreement or to perform its obligations under or in furtherance of this Compact or any Supplemental Agreement or to exercise its rights thereunder; (B) makes it improbable that the Objectives will be achieved during the Compact Term; or (C) materially and adversely affects the Program Assets or any Permitted Account;

(xi) The Government or any Permitted Designee or Provider has taken any action or omission or engaged in any activity in violation of, or inconsistent with, the requirements of this Compact or any Supplemental Agreement to which the Government or any Permitted Designee or Provider is a party; or

(xii) There has occurred, in MCC's sole opinion, a failure to meet a condition precedent or series of conditions precedent to MCC Disbursement as set out in and in accordance with any Supplemental Agreement between the Parties.

(c) MCC may reinstate any suspended or terminated MCC Funding under this Compact or any Supplemental Agreement if MCC determines, in its sole discretion, that the Government or other relevant party has demonstrated a commitment to correcting each condition for which MCC Funding was suspended or terminated.

(d) The authority to suspend or terminate this Compact or any MCC Funding under this Section 5.4 includes the authority to suspend or terminate any obligations or sub-obligations relating to MCC Funding under any Supplemental Agreement without any liability to MCC whatsoever.

(e) All MCC Funding shall terminate upon expiration or termination of the Compact Term; *provided, however*, reasonable expenditures for goods and services that are properly incurred under or in furtherance of this Compact before expiration or termination of the Compact Term may be paid from MCC Funding, provided that the request for such payment is properly submitted within sixty (60) days after such expiration or termination.

(f) Except for payments which the Parties are committed to make under noncancelable commitments entered into with third parties before such suspension or termination, the suspension or termination of this Compact or any Supplemental Agreement, in whole or in part, shall suspend, for the period of the suspension, or terminate, or ensure the suspension or termination of, as applicable, any obligation or sub-obligation of the Parties to provide financial or other resources under this Compact or any Supplemental Agreement, or to the suspended or terminated

portion of this Compact or such Supplemental Agreement, as applicable. In the event of such suspension or termination, the Government shall use its best efforts to suspend or terminate, or ensure the suspension or termination of, as applicable, all such noncancelable commitments related to the suspended or terminated MCC Funding. Any portion of this Compact or any such Supplemental Agreement that is not suspended or terminated shall remain in full force and effect.

(g) Upon the full or partial suspension or termination of this Compact or any MCC Funding, MCC may, at its expense, direct that title to Program Assets be transferred to MCC if such Program Assets are in a deliverable state; *provided*, for any Program Asset(s) partially purchased or financed (directly or indirectly) by MCC Funding, the Government shall reimburse to a U.S. Government account designated by MCC the cash equivalent of the portion of the value of such Program Asset(s).

(h) Prior to the expiration of this Compact or upon the termination of this Compact, the Parties shall consult in good faith with a view to reaching an agreement in writing on (i) the post-Compact Term treatment of MCA-Madagascar, (ii) the process for ensuring the refunds of MCC Disbursements that have not yet been released from the account into which the MCC Disbursement was made (or the Local Account to which the MCC Disbursement was transferred in accordance with Section 2.1(d)) through a valid Re-Disbursement nor otherwise committed in accordance with Section 5.4(e), or (iii) any other matter related to the winding up of the Program and this Compact.

Section 5.5 Privileges and Immunities. MCC is an agency of the Government of the United States of America and its personnel assigned to the Republic of Madagascar will be notified pursuant to the Vienna Convention on Diplomatic Relations as members of the mission of the Embassy of the United States of America. The Government shall ensure that any employees of MCC, including individuals detailed to or contracted by MCC, and the members of the families of such employees, while such employees are performing duties in the Republic of Madagascar, shall enjoy at least the privileges and immunities that are enjoyed by a member of the United States Foreign Service, or the family of a member of the United States Foreign Service, as appropriate, of comparable rank and salary of such employee, if such employees or the members of the families of such employee are not a national of or permanently resident in the Republic of Madagascar.

Section 5.6 Attachments. Any annex, schedule, exhibit, table, appendix or other attachment expressly attached hereto (collectively, the "Attachments") is incorporated herein by reference and shall constitute an integral part of this Compact.

Section 5.7 Inconsistencies.

(a) Conflicts or inconsistencies between any parts of this Compact shall be resolved by applying the following descending order of precedence:

- (i) Articles I through V
- (ii) Any Attachments

(b) In the event of any conflict or inconsistency between this Compact and any Supplemental Agreement between the Parties, the terms of this Compact shall prevail. In the event of any conflict or inconsistency between any Supplemental Agreement between the Parties and any other Supplemental Agreement, the terms of the Supplemental Agreement between the Parties shall prevail. In the event of any conflict or inconsistency between Supplemental Agreements between any parties, the terms of a more recently executed Supplemental Agreement between such parties shall take precedence over a previously executed Supplemental Agreement between such parties. In the event of any inconsistency between a Supplemental Agreement between the Parties and any component of the Implementation Plan (defined in Annex I), the terms of the relevant Supplemental Agreement shall prevail.

Section 5.8 Indemnification. The Government shall indemnify and hold MCC and any MCC officer, director, employee, Affiliate, contractor, agent or representative (each of MCC and any such persons, an "*MCC Indemnified Party*") harmless from and against, and shall compensate, reimburse and pay such MCC Indemnified Party for, any liability or other damages which (i) are directly or indirectly suffered or incurred by such MCC Indemnified Party, or to which any MCC Indemnified Party may otherwise become subject, regardless of whether or not such damages relate to any third-party claim, and (ii) arise from or as a result of the gross negligence or willful misconduct of the Government, any Government Affiliate, or any Permitted Designee, directly or indirectly connected with, any activities (including acts or omissions) undertaken in furtherance of this Compact; *provided, however*, the Government shall apply national funds to satisfy its obligations under this Section 5.8 and no MCC Funding, Accrued Interest, or Program Asset may be applied by the Government in satisfaction of its obligations under this Section 5.8.

Section 5.9 Headings. The Section and Subsection headings used in this Compact are included for convenience only and are not to be considered in construing or interpreting this Compact.

Section 5.10 Interpretation; Definitions. Any reference to the term "including" in this Compact shall be deemed to mean "including without limitation" except as expressly provided otherwise. Any reference to activities undertaken "in furtherance of this Compact" or similar language shall include activities undertaken by the Government, any Provider or any other third party receiving MCC Funding involved in carrying out the purposes of this Compact or any Supplemental Agreement, including their officers, directors, employees, Affiliates, contractors, agents and representatives, whether pursuant to the terms of this Compact, any Supplemental Agreement or otherwise. References to "day" or "days" shall be calendar days unless provided otherwise. The term "U.S. Government" shall mean any branch, agency, bureau, government corporation, government chartered entity or other body of the Federal government of the United States.

Section 5.11 Signatures. Other than a signature to this Compact or an amendment to this Compact pursuant to Section 5.3, a signature delivered by facsimile or electronic mail in accordance with Section 5.1 shall be deemed an original signature, and the Parties hereby waive any objection to such signature or to the validity of the underlying document, certificate, notice, instrument or agreement on the basis of the signature's legal effect, validity or enforceability solely because it is in facsimile or electronic form. Such signature shall be accepted by the receiving Party as an original signature and shall be binding on the Party delivering such signature.

Section 5.12 Designation. MCC may designate any Affiliate, agent, or representative to implement, in whole or in part, its obligations, and exercise any of its rights, under this Compact or any Supplemental Agreement between the Parties.

Section 5.13 Survival. Any Government Responsibilities, covenants, or obligations or other responsibilities to be performed by the Government after the Compact Term shall survive the termination or expiration of this Compact and expire in accordance with their respective terms. Notwithstanding the termination or expiration of this Compact, the following provisions shall remain in force: Sections 2.2, 2.3, 2.5, 3.2, 3.3, 3.4, 3.5, 3.8, 3.9 (for one year), 3.12, 3.13, 5.1, 5.2, 5.4(d), 5.4(e) (for sixty days), 5.4(f), 5.4(g), 5.4(h), 5.5, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11, 5.12, this Section 5.13, 5.14, and 5.15.

Section 5.14 Consultation. Either Party may, at any time, request consultations relating to the interpretation or implementation of this Compact or any Supplemental Agreement between the Parties. Such consultations shall begin at the earliest possible date. The request for consultations shall designate a representative for the requesting Party with the authority to enter consultations and the other Party shall endeavor to designate a representative of equal or comparable rank. If such representatives are unable to resolve the matter within 20 days from the commencement of the consultations then each Party shall forward the consultation to the Principal Representative or such other representative of comparable or higher rank. The consultations shall last no longer than 45 days from date of commencement. If the matter is not resolved within such time period, either Party may terminate this Compact pursuant to Section 5.4(a). The Parties shall enter any such consultations guided by the principle of achieving the Compact Goal in a timely and cost-effective manner.

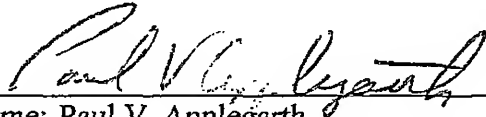
Section 5.15 MCC Status. MCC is a United States government corporation acting on behalf of the United States Government in the implementation of this Compact. As such, MCC has no liability under this Compact, is immune from any action or proceeding arising under or relating to this Compact and the Government hereby waives and releases all claims related to any such liability. In matters arising under or relating to this Compact, MCC is not subject to the jurisdiction of the courts or other body of Madagascar.

Signature page begins on the next page.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective governments, have signed this Compact this 18th day of April, 2005 and this Compact shall enter into force in accordance with Section 1.3.

Done at Washington, D.C. in the English language.

FOR MILLENNIUM CHALLENGE
CORPORATION, ON BEHALF OF
THE UNITED STATES OF AMERICA


Name: Paul V. Applegarth
Title: Chief Executive Officer

FOR THE GOVERNMENT OF THE
REPUBLIC OF MADAGASCAR

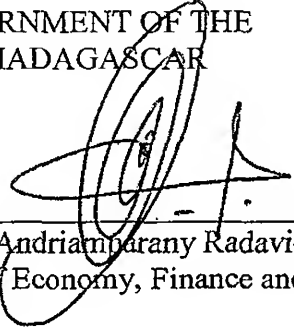

Name: Benjamin Andriampanary Radavidson
Title: Minister of Economy, Finance and Budget

EXHIBIT A
LIST OF CERTAIN SUPPLEMENTAL AGREEMENTS

1. Governance Agreement
2. Form of Fiscal Agent Agreement
3. Form of Implementing Entity Agreement
4. Form of Bank Agreement